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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,043	02/18/2005	Anthony Henry Joseph Fraser	M3407.0009/P009	5667
24998	7590	09/26/2006	EXAMINER	
DICKSTEIN SHAPIRO LLP			GOINS, DAVETTA WOODS	
1825 EYE STREET NW				
Washington, DC 20006-5403			ART UNIT	PAPER NUMBER
			2612	
DATE MAILED: 09/26/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/525,043

Applicant(s)

FRASER ET AL.

Examiner

Davetta W. Goins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-23, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 12 and 24-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 2 and 18 are objected to because of the following informalities: Claim 2, recites “provided with locating means” in line 2, and it should read “provided with a locating means”.

Claim 18, recites “having locating means” and should read “having a locating means”.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4, 7, 8, 11, recite the limitation "the security device" in line 2. The claimed “security device” should read as “locking device” that’s in claim 1. There is insufficient antecedent basis for this limitation in the claim.

4. Claim 11 recites the limitation "with locating means" in line 4. The locating means is not in any of the preceding claims that claim 11 depends on (only stated in claim 2). There is insufficient antecedent basis for this limitation in the claim.

### ***Allowable Subject Matter***

5. Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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6. Claims 12, 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3, 7-10, 13-23, 27, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakasuji (US Pat. 6,202,454 B1) in view of Necchi (US Pat. 6,497,125 B1).

In reference to claims 1, 2, 7-10, 17, 18, 20-23, 27, 28, Nakasuji discloses the claimed over container for providing a security housing for a primary container, the over container being adapted to receive or contain the primary container and having alarm triggering means therein such that, when in a locked configuration, neither the primary container nor the alarm triggering means can be removed therefrom and, when in an unlocked configuration, the over container can be opened to allow the primary container to be removed therefrom, the over container being provided with a locking device having first and second arms which, in a locked position, respectively engage parts of the over container so as to hold the over container in a closed configuration and which, in an unlocked position, enable the parts to be moved to an open

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configuration, the locking device having retaining means which, when the locking device is moved to the locked position, acts to retain the locking device in this position, which is met by security case 120 constructed in accordance with the principles of the present invention. The security case 120 defines a generally rectangular interior volume sized for holding or storing merchandise such as cigarette cartons, T-shirts, toys, jewelry, video games, video or cassette tapes, video disks, compact disks, etc. Preferably, a conventional theft detection tag 121 is attached to an inner surface of the security case 120 (col. 4, lines 53-65). A locking mechanism 130 also includes a locking member 144 mounted within the space 138 between the top and bottom walls 134 and 136 (first and second arms). The locking member 144 is preferably movable along a second spatial dimension d.sub.2 between a locked position (shown in FIG. 11) in which the top and bottom housing pieces 124 and 126 are locked in the closed position, and an unlocked position unlocked position (shown in FIG. 10) in which the top and bottom housing pieces 124 and 126 can be pivoted from the closed position to the open position (col. 5 and col. 6). Although Nakasuji does not disclose the claimed lock which is releasable upon application of a predetermined magnetic field thereto, he does provide a lock releasing means device 8 that is used to release the locking means attached to the security case (col. 2, lines 60-67; col. 3, lines 1-5). Necchi discloses an anti-theft case that includes a case 1 that encloses a product that is to be protected. An abutment member 7 is used to keep the case 1 in a locked position and an unlocking device 9 is used, such as a magnet, to remove the abutment member 7 (col. 3, lines 24-44). Since both Nakasuji and Necchi disclose cases used for protecting and deterring theft, with an unlocking means used to release a separate device used to keep the container in a locked position, it would have been obvious to one of ordinary skill in the art at the time of the invention

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to incorporate the teaching of using a magnet, as disclosed by Necchi, with the system of Nakasuji, as an already well known system used in security system to be used and provide a secure means that will prohibit thieves from being able to gain access to the primary container.

In reference to claims 3, 13-16, 19, Nakasuji discloses the claimed over container provided with locating means for locating and/or holding the primary container, which is met by a conventional theft detection tag 121 is attached to an inner surface of the security case 120 (col. 4, lines 53-65).

9. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakasuji in view of Necchi as applied to claim 1 above, and further in view of Galton-Fenzi et al. (US Pat. 6,082,572).

In reference to claims 4-6, neither Nakasuji nor Necchi disclose the claimed security device that cannot be removed from the over container. Galton-Fenzi discloses a security container with a locking lid 3 that is not removable from the security container (col. 3, lines 1-50; Figure 1).

Since Nakasuji, Necchi and Galton-Fenzi disclose locking devices used to close in the articles to be protected, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a security device (locking device) that is attached and can't be removed from the housing, as disclosed by Galton-Fenzi, with the systems of Nakasuji and Necchi, to provide a system that will ensure that the container and locking device can easily be reused and the locking device can't be lost.

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8. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure as follows. Bruhwiler (US Pa6. 5,209,086), Yabe (US Pat. 5,769,218), Nakasuji (US Pat. 5,823,341), Belden, Jr. et al. (US Pat 6,672,455 B2) and Ahn (US Pat. 6,931,895 B1), which disclose security containers.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davetta W. Goins whose telephone number is 571-272-2957. The examiner can normally be reached on Mon-Fri with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



D.W.G.

September 21, 2006

Davetta W. Goins  
Primary Examiner  
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